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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,258	07/08/2003	Elizabeth Foral	DWE 02-1-2	8162
23531	7590	11/23/2005	EXAMINER	
SUITER WEST SWANTZ PC LLO 14301 FNB PARKWAY SUITE 220 OMAHA, NE 68154			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/615,258

Applicant(s)

FORAL, ELIZABETH

Examiner

Terrence R. Till

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1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/18/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the smoke detection assembly, the insect control assembly, the water enhancement assembly, the trash compacter assembly, and the self loading trash receptacle assembly (claims 7, 12 and 18). must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-5, 14-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gab et al. in view of May et al.

The patent to Gab et al. discloses a vacuum trash insertion receptacle assembly, comprising: a housing 10 including a trash tube 22, the trash tube being suitable for allowing the insertion of garbage within the vacuum trash insertion receptacle assembly; a vacuum assembly 32 coupled to the trash tube, the vacuum assembly being suitable for creating a vacuum within the trash tube for transporting the garbage in the trash tube to a trash receptacle assembly 34; an indicator assembly 46 coupled to the trash tube for indicating the level of garbage within the trash receptacle assembly. Gab does not disclose an interactive module assembly coupled with the housing, the interactive module assembly being suitable for providing interaction with a user, wherein the vacuum trash insertion receptacle assembly provides user interactive garbage

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collection and storage. The publication to May et al. discloses an interactive trash receptacle 20 having an interactive module assembly A55, including an audio module (see also paragraph 60), to sense the approach of patrons. As both the devices of Gab et al. and May et al. are dedicated to the collection of trash, it would have been obvious to a person skilled in the art at the time the invention was made to provide an interactive module assembly to the device of Gab et al. in view of the teaching of May et al. for providing interaction with a user, wherein the vacuum trash insertion receptacle assembly provides user interactive garbage collection and storage. With respect to claim 3, Gab et al. is not portable. May et al. is portable (see wheels 86). It would have been obvious to a person skilled in the art at the time the invention was made to modify the device of Gab et al. to be portable in view of the teaching of May et al. in order to move the device of Gab et al. to where ever an area needs to be cleaned. With respect to claim 14, Gab et al., as modified by May et al., is considered to inherently disclose the method steps of establishing a vacuum trash insertion receptacle; identifying a user in need of garbage collection; and collecting garbage from the user, as well as satisfying the structural limitations of the method steps recited in claims 15-17 and 19.

5. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gab et al., as modified by May et al., as applied to claims 1 and 15 above, and further in view of Smith.

6. The device of Gab et al., as modified by May et al., does not disclose an animation assembly. However, the patent to Smith discloses a machine (car wash assembly) that has a number of different animated animals 81, 83, 91 for the purpose of entertaining the users of the machine. It would have been obvious to a person skilled in the art at the time the invention was made to provide an animation assembly to the device of Gab et al., as modified by May et al., in

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view of the teaching of Smith in order to provide entertainment to the user to make the experience more enjoyable.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gab et al., as modified by May et al., as applied to claim 1 above, and further in view of Japanese patent to Muramatsu et al.

8. The device of Gab et al., as modified by May et al., does not disclose smoke detection assembly. The Japanese patent to Muramatsu et al. discloses a fire extinguisher for a trash receptacle that includes a smoke detector 4. It would have been obvious to a person skilled in the art at the time the invention was made to provide a smoke detector to the device of Gab et al., as modified by May et al., in view of the teaching of Japanese patent to Muramatsu et al. in order to detect a fire that may be started by incendiary material, such as cigarette butts, that may be vacuumed up.

9. Claims 8, 9, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gab et al. in view of May et al. and Goss (cited in IDS).

The patent to Gab et al. discloses a vacuum trash insertion receptacle assembly, comprising: a housing 10 including a trash tube 22, the trash tube being suitable for allowing the insertion of garbage within the vacuum trash insertion receptacle assembly; a vacuum assembly 32 coupled to the trash tube, the vacuum assembly being suitable for creating a vacuum within the trash tube for transporting the garbage in the trash tube to a trash receptacle assembly 34; an indicator assembly 46 coupled to the trash tube for indicating the level of garbage within the trash receptacle assembly. Gab does not disclose an interactive module assembly coupled with the housing, the interactive module assembly being suitable for providing interaction with a user,

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wherein the vacuum trash insertion receptacle assembly provides user interactive garbage collection and storage. The publication to May et al. discloses an interactive trash receptacle 20 having an interactive module assembly A55, including an audio module (see also paragraph 60), to sense the approach of patrons. As both the devices of Gab et al. and May et al. are dedicated to the collection of trash, it would have been obvious to a person skilled in the art at the time the invention was made to provide an interactive module assembly to the device of Gab et al. in view of the teaching of May et al. for providing interaction with a user, wherein the vacuum trash insertion receptacle assembly provides user interactive garbage collection and storage. Gab et al. also does not disclose a housing aesthetically shaped like an animal. The design patent to Goss discloses a pig-shaped trash receptacle. Since, it was known at the time the invention was made that receptacles can be ornamental animal shapes, it would have been obvious to a person skilled in the art at the time the invention was made to provide an ornamental animal shape to the device of Gab et al. in view of the teaching of Goss, as such is considered a mere choice of design having no utility. With respect to claim 13, Gab et al. is not portable. May et al. is portable (see wheels 86). It would have been obvious to a person skilled in the art at the time the invention was made to modify the device of Gab et al. to be portable in view of the teaching of May et al. in order to move the device of Gab et al. to where ever an area needs to be cleaned.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gab et al., as modified by May et al. and Goss, as applied to claim 8 above, and further in view of Smith.

11. The device of Gab et al., as modified by May et al. and Goss, does not disclose an animation assembly. However, the patent to Smith discloses a machine (car wash assembly) that has a number of different animated animals 81, 83, 91 for the purpose of entertaining the users of

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the machine. It would have been obvious to a person skilled in the art at the time the invention was made to provide an animation assembly to the device of Gab et al., as modified by May et al. and Goss, in view of the teaching of Smith in order to provide entertainment to the user to make the experience more enjoyable.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gab et al., as modified by May et al. and Goss, as applied to claim 8 above, and further in view of Japanese patent to Muramatsu et al.

13. The device of Gab et al., as modified by May et al. and Goss, does not disclose smoke detection assembly. The Japanese patent to Muramatsu et al. discloses a fire extinguisher for a trash receptacle that includes a smoke detector 4. It would have been obvious to a person skilled in the art at the time the invention was made to provide a smoke detector to the device of Gab et al., as modified by May et al., in view of the teaching of Japanese patent to Muramatsu et al. in order to detect a fire that may be started by incendiary material, such as cigarette butts, that may be vacuumed up.

14. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gab et al., as modified by May et al., as applied to claim 14 above, and further in view of Rood.

15. The device of Gab et al., as modified by May et al., does not disclose a gate coupled to a first end of the trash tube. The patent to Rood discloses a trash collection apparatus that has a gate 145 coupled to a first end of the trash tube 140. It would have been obvious to a person skilled in the art at the time the invention was made to provide a gate coupled to a first end of the trash tube to the device of Gab et al., as modified by May et al., in view of the teaching of Rood



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in order to contain all the debris collected and limit any odors that may emanate from the trash receptacle.

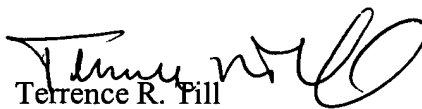
***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Lopes, Moore et al., Freeman, Douglas, Kelly, Kasper, Hed, Brenholt et al., Nevin et al. and Mouw et al. disclose debris receiving vacuum devices. The patents to Evans, LaBarge et al., Ryan et al., Feigleson, Clark and Japanese patent to Kitagawa disclose trash/recycling receptacles having one or more sensors for controlling operation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sun U. Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Terrence R. Till  
Primary Examiner  
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